

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF TRANSFER)
NO. 69220 IN THE NAME OF)
DANA L. ANDERSON)
_____)

**PRELIMINARY ORDER CORRECTING
TRANSFER APPROVAL**

This matter having come before the Department of Water Resources ("Department") as a result of the filing of a petition to correct a transfer approval, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On June 20, 2002, the Department issued an order approving Transfer No. 69220 ("transfer") in the name of Dana L. Anderson ("applicant"). The transfer changed the point of diversion for a portion of water right license nos. 63-2846 and 63-3326.
2. Prior to the transfer, water right license no. 63-2846 authorized irrigation for property in the N1/2 of the NW1/4 of the SE1/4 of Section 35, Township 4N, Range 4W. Department records indicate the property is now owned by Scott A. Syme.
3. Prior to the transfer, water right license no. 63-3326 authorized irrigation for property including 7 acres in the S1/2 of the NW1/4 of the SE1/4 of Section 35, Township 4N, Range 4W. Ownership documentation submitted with the transfer application indicated that the applicant owned 3 acres of the irrigated property in the South 1/2 of the NW1/4 of the SE1/4 of Section 35, Township 4N, Range 4W.
4. On January 30, 2004, the Department received a petition from Scott A. Syme, asking the Department to correct the transfer by removing water right license no. 63-2846 from the transfer approval.
5. On February 2, 2004, the Department received a statement from the applicant acknowledging that water right license no. 63-2846 should not have been included in the transfer approval. The applicant also submitted notice to the Department that ownership of the property in the S1/2 of the NW1/4 of the SE1/4 of Section 35, Township 4N, Range 4W has changed due to her marriage to Joseph Scott Tilmant. The property is now owned by Joseph Scott Tilmant and Dana L. Tilmant.

CONCLUSIONS OF LAW

1. The transfer approval should accurately describe each established water right as changed by the transfer pursuant to Section 42-222, Idaho Code.
2. The Department erred by including water right license no. 63-2846 as part of the transfer approval.
3. The Department should correct the transfer approval by removing water right license no. 63-2846, including any associated splits, from the transfer approval.

ORDER

IT IS HEREBY ORDERED that the order approving Transfer No. 69220 issued by the Department on June 20, 2002 is **CORRECTED** as set forth in the amended transfer approval issued in conjunction with this order.

Dated this 12th day of February, 2004.



Gary Spackman
Chief, Water Allocation Bureau

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED**TRANSFER OF WATER RIGHT*****AMENDED***

TRANSFER NO. 69220

This is to certify that: DANA L ANDERSON
19385 HUSKY LN
CALDWELL ID 83607
(208)455-8933

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

<u>Right</u>	<u>Origin/Basis</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acres</u>	<u>Total</u>	<u>Source</u>
63-3326	AJC/License	01/15/1963	0.90 cfs	206.0 af	N/A	45.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-3326	YES	YES	NO	NO	NO	NO

Summary of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (changed portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
63-3326	63-31253	0.06 cfs	13.5 af	N/A	3.0	63-31252	0.84 cfs	192.5 af	N/A	42.0
TOTALS		0.06 cfs	13.5 af	N/A	3.0		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 12th day of February, 2004



Chief, Water Allocation Bureau

WATER RIGHT NO. 63-31252
As Modified by Transfer No. 69220

In accordance with the approval of Transfer No. 69220, Water Right No. 63-31252 is now described as follows.

Right Holder: SCOTT A SYME
 17498 ALLENDALE RD
 WILDER ID 83676

Priority Date: 01/15/1963

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/15	0.84 CFS	192.5 AF
			0.84 CFS	192.5 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SWNE Sec. 35 Twp 04N Rge 04W CANYON County

GROUND WATER NWSW Sec. 35 Twp 04N Rge 04W CANYON County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N 04W 26											3.0						3.0
04N 04W 35							35.0								4.0		39.0

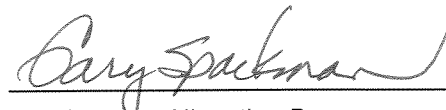
Total Acres: 42

CONDITIONS OF APPROVAL

- Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 12th day of February, 2004


 Chief, Water Allocation Bureau

WATER RIGHT NO. 63-31253
As Modified by Transfer No. 69220

In accordance with the approval of Transfer No. 69220, Water Right No. 63-31253 is now described as follows.

Right Holder: DANA L TILMANT AND
 JOSEPH SCOTT TILMANT
 19385 HUSKY LN
 CALDWELL ID 83607

Priority Date: 01/15/1963

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01 to 10/15	0.06 CFS	13.5 AF
		0.06 CFS	13.5 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NWSE Sec. 35 Twp 04N Rge 04W CANYON County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N 04W 35															3.0		3.0
Total Acres:																	3

CONDITIONS OF APPROVAL

- Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
- This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
- The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.
- The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
- Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
- Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 12th day of February, 2004


 Chief, Water Allocation Bureau